

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: TYLENOL®
(ACETAMINOPHEN) MARKETING,
SALES PRACTICES AND PRODUCTS
LIABILITY LITIGATION**

§ **MDL NO. 2436**
§
§ **2:13-md-02436**
§
§ **HON. LAWRENCE F. STENGEL**

THIS DOCUMENT RELATES TO:

ERIN DAY

Plaintiff,

v.

**McNEIL-PPC, INC., McNEIL CONSUMER
HEALTHCARE, and JOHNSON &
JOHNSON, INC.**

Defendant(s).

§
§
§
§ **Civil Action No.**
§
§
§ **SHORT-FORM COMPLAINT
AND JURY DEMAND**
§
§
§
§

The Plaintiff(s) file this *Short-Form Complaint* against the Defendants named below and incorporate *The Master Complaint and Jury Demand* filed in MDL No. 2436 by reference. Plaintiff(s) selects and indicates by checking-off where requested, those products, Parties and claims that are specific to his or her case. Plaintiff(s) further allege as follows:

1. Plaintiff

Erin Day

2. Plaintiff's Spouse (if applicable)

N/A

3. Other Plaintiff and Capacity, if applicable (*i.e.*, administrator, executor, guardian, conservator, etc.)

N/A

4. State of Residence

Florida

5. State of Residence at time of ingestion of TYLENOL®.

Florida

6. United States District Court and Division in which venue would be proper absent direct filing.

United States District Court for the Middle District of Florida, Tampa Division

7. Defendant(s) (Check each Defendant against whom Complaint is made).¹



McNeil-PPC, Inc.



McNeil Consumer Healthcare



Johnson & Johnson



Other

8. Basis of Jurisdiction



Diversity of Citizenship



Other: _____

Other allegations of jurisdiction and venue:

N/A

¹ If additional Counts and/or Counts directed to other Defendants are alleged, the specific facts supporting these allegations must be pleaded by the Plaintiff in a manner complying with the requirements of the Federal Rules of Civil Procedure, and the Defendants against whom they are alleged must be specifically identified on a separate sheet of paper attached to the *Short Form Complaint*.

9. Defendants' products ingested by Plaintiff as to which Plaintiff is making a claim in this lawsuit are (check-all):

- ☒ Extra Strength TYLENOL®
- ☐ Regular Strength Tylenol
- ☐ TYLENOL® 8 hour Muscle Aches and Pain
- ☐ TYLENOL® Arthritis Pain
- ☐ TYLENOL® Sinus Congestion and Pain Severe
- ☐ TYLENOL® Sinus Congestion and Pain Daytime
- ☐ TYLENOL® Cold Multi-Symptom Severe
- ☐ TYLENOL® Cold Multi-Symptom Daytime
- ☐ TYLENOL® Cold Multi-Symptom Nighttime
- ☐ TYLENOL® Cold and Flu Severe
- ☐ TYLENOL® Cold Sore Throat
- ☐ TYLENOL®PM
- ☐ TYLENOL® Extra Strength Nighttime
- ☐ Infant's TYLENOL® Oral Suspension
- ☐ Children's TYLENOL® Oral Suspension
- ☐ Children's TYLENOL® Meltaways Chewable Tablets
- ☐ Jr. TYLENOL® Meltaways Chewable Tablets
- ☐ Children's TYLENOL® Plus Multi-Symptom Cold
- ☐ Children's TYLENOL® Plus Cold
- ☐ Children's TYLENOL® Plus Cold and Cough
- ☐ Children's TYLENOL® Plus Cough and Runny Nose

- ☐ Children's TYLENOL® Plus Cough and Sore Throat
- ☐ Children's TYLENOL® Plus Flu
- ☐ Other (List All)

10. Plaintiff ingested the drug or drugs set forth in Paragraph 9 above from approximately April 9, 2013 to May 9, 2013.

11. Plaintiff had the following injury: Acute liver injury on or about May 9, 2013 which is alleged to have been caused by the drug or drugs set forth in Paragraph 9 above.

12. The following claims asserted in *The Master Complaint and Jury Demand*, and the allegations with regard thereto, are herein adopted by reference:

- ☒ Count I – STRICT LIABILITY
- ☒ Count II – BREACH OF IMPLIED WARRANTY OF MERCHANT ABILITY
- ☒ Count III – BREACH OF IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE
- ☒ Count IV – NEGLIGENT FAILURE TO WARN
- ☒ Count V – NEGLIGENT DESIGN DEFECT
- ☒ Count VI – NEGLIGENCE
- ☒ Count VII – NEGLIGENT MISREPRESENTATION
- ☒ Count VIII – BREACH OF EXPRESS WARRANTY
- ☒ Count IX – FRAUD
- ☒ Count X – VIOLATION OF CONSUMER PROTECTION LAWS
- ☒ Count XI – FRAUDULENT CONCEALMENT
- ☐ Count XII – LOSS OF CONSORTIUM
- ☒ Count XIII – PUNITIVE DAMAGES

- ☐ Count XIV – DISCOVERY RULE AND TOLLING
- ☐ Count XV – WRONGFUL DEATH
- ☐ Count XVI – SURVIVAL ACTION
- ☐ Other Count(s) (See FN 1)

13. Plaintiff(s) asserts the following additional theories against the Defendants identified in Paragraph 7 above (*See* FN 1):

N/A

14. Plaintiff(s) asserts the following additional theories against Defendants other than those identified in Paragraph 7 above (*See* FN 1):

N/A

WHEREFORE, Plaintiff(s) pray for relief as set forth in *The Master Complaint and Jury Demand* filed in MDL No. 2436.

/s/ Christopher V. Tisi
Christopher V. Tisi
James F. Green
Sara E. Anderson
ASHCRAFT & GEREL, LLP
4900 Seminary Road, Suite 650
Alexandria, VA 22311
703-931-5500
703-820-1656 (facsimile)
cvtisi@aol.com
jgreen@ashcraftlaw.com
sanderson@ashcraftlaw.com

Attorneys for Plaintiff